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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,053	07/25/2001	Antonio Bogat	9422	6099

26884 7590 08/04/2005

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EXAMINER

BARNIE, REXFORD N

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,053

Applicant(s)

BOGAT, ANTONIO

Examiner

REXFORD N. BARNIE

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Rexford N. Barrie
REXFORD BARNIE
PRIMARY EXAMINER

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 8-10, 15-17 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jalili (US Pat# 6,088,683) in view of Kwan (US 2002/0147658).

Regarding claims 1, 8, 15 and 21, Jalili teaches a computer network method for supporting transactions billed to an account through a telephone comprising of receiving merchant transaction data, receiving consumer transaction data through a telephone and a processing system which processing the merchant transaction and customer data to access a financial account so that approval for a transaction may be obtained in (see col. 2 line 15-col. 3 line 6 and see figs) in conjunction with ANI information.

Jalili fails to teach using a "cellular phone" as part of the transaction in conjunction with a telephone account identifier to which a transaction can be billed and in detail, the figs. shown in (see figs. 1-4).

Kwan teaches a computer network method for conducting payment over a network by debiting and crediting telephone accounts in (see figs. 1-4, col. 3 [0021-0026]-col. 4[0032]) by using a mobile telephone in conjunction with the system shown including a merchant site, customer data and a processor. Furthermore, querying of one's account is done to authenticate payment information.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Kwan into that of Jalili thus making it possible to use any communication device either a cell phone or landline phone as means of confirming a transaction data since they are functionally equivalent and in the case of a mobile phone, it provides the ability to use one's phone over a wide geographical area. Furthermore, the combination reduces fraudulent charging of one's account by checking and collaborating ANI information.

Regarding claim 2, the combination teaches authentication of an account identifier either in the form of a credit card or a prepaid or telephone account identifier.

Regarding claims 3 and 9-10, the combination teaches sending approval to the merchant in (see col.3 lines 3-5 of Jalili) and to the customer terminal in (col. 2 {0012} of Kwan).

Regarding claim 16-17, the combination teaches the claimed subject matter.

Regarding claims 22-23, It's known to display purchase items and its prices for E-commerce or purchases generally over the internet and (see col. 2 of Jalili).

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan (US 2002/0147658) in view of Apte (US Pat# 5,778,173).

Regarding claim 4, Kwan teaches a terminal for supporting consumer transactions billed through an account through a cellular telephone comprising of a transaction data generator and a display for generating transaction data and making a call wherein the transaction can be billed to an account associated with the telephone

number in (see page 3 [0025]-page 4[0032]) but fails to teach that a number to be called can be display to a user before calling.

Apte teaches a mechanism for enabling secure electronic transaction on the internet wherein a telephone number to call can be given to a user during a transaction in (see col. 3 lines 39-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Apte into that of the combination thus making user aware of a telephone number to call as part of a transaction algorithm to complete a purchase and confirming a transaction for security/billing reasons

Regarding claims 5 and 7, The combination renders the claimed subject matter obvious.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan (US 2002/0147658) in view of Apte (US Pat# 5,778,173) and further in view of Showghi et al. (US Pat# 6,473,739) or Utsunomiya (US 2002/0010678).

Regarding claim 6, the combination fails to teach the claimed subject matter but either Showghi teaches a method of providing a plurality of payment options in (see fig. 4) or (see figs. 3-6 of Utsunomiya).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Showghi or Utsunomiya into that of the combination thus making it possible to provide the advantage of offering a plurality of payment option to suit needs of consumers instead of one payment means.

Claims 11, 12 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jalili (US Pat# 6,088,683) in view of Kwan (US 2002/0147658) and further in view of Apte (US Pat# 5,778,173).

Regarding claims 11 and 18, the combination fails to teach the claimed subject matter but Apte teaches a mechanism for enabling secure electronic transaction on the internet wherein a telephone number to call can be given to a user during a transaction in (see col. 3 lines 39-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Apte into that of the combination thus making user aware of a telephone number to call as part of a transaction algorithm to complete a purchase and confirming a transaction for security/billing reasons

Regarding claim 12, The combination teaches approval of a transaction including payment identifier/data.

Regarding claim 19, It would have been obvious to one of ordinary skill to be able to display a telephone number to complete a transaction for any payment means.

Regarding claim 20, The combination teaches payment of a transaction either through a telephone account or accredit card means and crediting a merchant for purchased items.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jalili (US Pat# 6,088,683) in view of Kwan (US 2002/0147658) and further in view of Apte (US Pat# 5,778,173) and further in view of Showghi et al. (US Pat# 6,473,739) or Utsunomiya (US 2002/0010678).

Regarding claim 13, the combination fails to teach the claimed subject matter but either Showghi teaches a method of providing a plurality of payment options in (see fig. 4) or (see figs. 3-6 of Utsunomiya).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Showghi or Utsunomiya into that of the combination thus making it possible to provide the advantage of offering a plurality of payment option to suit needs of consumers instead of one payment means.

Regarding claim 14, The combination including Kwan teaches the ability to bill payment of a transaction to an account associated with a telephone number.

Claims 21- 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan et al. Kwan (US 2002/0147658) in view of Jalili (US Pat# 6,088,683).

Regarding claim 21, Kwan teaches a communication system wherein merchant transaction data can be received from a merchant point of sale terminal in (see paragraph 19 and 25), receiving a telephone call from a cellular telephone, correlating the received data from a point of sale terminal and that of the customer to approved payment of the transaction in (see disclosure). Jalili teaches in detail the customer transaction data other than that of the MIN or ANI.

Jalili teaches a communication wherein a detailed merchant data invoice and customer data can be analyzed when authenticating a customer in (see col. 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Jalili into that of Kwan thus making it possible to deter fraud and make sure that a customer is indeed being billed for a desired or selected service.

Regarding claim 22, The combination teaches that transaction specific merchant data could be cost in (see paragraph 25 or 0025).

Regarding claim 23, The examiner takes official notice that it's known to display goods and the cost associated with them at a merchant terminal. Furthermore, according to Jalili, an invoice can be e-mailed from a merchant's terminal in (see col. 2 lines 28-39).

Regarding claim 24, Kwan teaches a communication system wherein merchant transaction data can be received from a merchant point of sale terminal in (see paragraph 19 and 25), receiving a telephone call from a cellular telephone, correlating the received data from a point of sale terminal and that of the customer to approved payment of the transaction in (see disclosure). Jalili teaches in detail the customer transaction data other than that of the MIN or ANI.

Jalili teaches a communication wherein a detailed merchant data invoice and customer data can be analyzed when authenticating a customer in (see col. 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Jalili into that of Kwan thus

making it possible to deter fraud and make sure that a customer is indeed being billed for a desired or selected service.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwan et al. Kwan (US 2002/0147658) in view of Jalili (US Pat# 6,088,683) and further in view of Apte.

Regarding claim 25, The combination fails to teach the claimed subject matter but Apte teaches a mechanism for enabling secure electronic transaction on the internet wherein a telephone number to call can be given to a user during a transaction in (see col. 3 lines 39-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Apte into that of the combination thus making user aware of a telephone number to call as part of a transaction algorithm to complete a purchase and confirming a transaction for security/billing reasons.

Response to Arguments

Applicant's arguments filed on 03/14/2005 have been fully considered but they are not persuasive.

The applicant argued the following arguments

The applicant argued that the prior art of record (Jalili) fails to teach a merchant terminal based on arguments in (pages 11-12, 14-15 of applicant's argument).

The examiner disagrees with the applicant because according to Jalili, at the merchant site, a merchant's terminal could include an apparatus for sending an E-mail, arguably a computer terminal, a telephone or other means in (see col. 2 lines 28-30). Furthermore, even though the definition of a terminal given by the applicant is correct, also a terminal can be defined by Computer dictionary, Microsoft Press, in electronics, a point that can be physically linked to something usually by a wire to form an electrical connection also falls under this definition.

The applicant argued that the combination including Jalili fails to teach using a merchant data and customer data, *both which are sent from the transaction site*, to access a financial account.

The examiner disagrees with the applicant because Jalili teaches receiving a merchant data from a merchant terminal in (see col. 2 lines 28-39) and receiving customer data information in (see col. 2 lines 40-65) and to be billed to a financial account which in this case would be a credit card account to be billed for the purchases of goods or services. According to (see col. 2 lines 8-14), credit card information can be pre-stored for instance.

Furthermore, the combination including Jalili or Kwan teaches the possibility of using a telephone to confirm a transaction and in the case of the merchant and the customer being at the same site is taught and rendered obvious by being able to use a cellular or mobile phone which can be used in making calls anywhere including one at the vicinity of the merchant's site as taught by Kwan. Furthermore, the combination including Kwan teaches receiving transaction data from a merchant site and information from a customer and querying for financial account information after which goods and/or services can be released to the customer.

The applicant argued that the combination including Jalili teaches using caller ID to identify a customer and nothing else in (see page 15).

The examiner disagrees with the applicant because Jalili teaches an identification and payment system which is pre-stored and can be verified based on caller ID information in (see col. 1 lines 66-col. 2 line 14 of Jalili). Furthermore, Kwan teaches the claimed limitations as claimed in claim 15.

The applicant argued that in regard to claim 21, the combination including Jalili fails to teach receiving both the customer and merchant data from the same site.

Jalili teaches being able to receive information from a merchant site and that of customer from a telephone (landline) but the combination including Kwan renders obvious the ability to receive information from the same vicinity by using a cellular telephone. The applicant has attacked the references individually when the explanation as set forth in the rejection of the claimed subject matter was based on the combination.

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Using a landline or cellular to transmit information is functionally equivalent and would have been obvious to one in place of the other.

The applicant argued that the combination including Kwan teaches accessing a web server using a customer's telephone and therefore, fails to teach a transaction generator because the transaction generator would be located at the merchant server and therefore, does not include a display that displays a telephone number to the user or customer.

The applicant has attacked the references individually when the explanation as set forth in the rejection of the claimed subject matter was based on a combination of references. First of all, Kwan teaches a customer being able to visit a point of sale terminal in (see paragraph 19 denoted 0019) that the point of sale terminal itself for instance can be used in accessing a web server thus one can generate a transaction data from the point of sale terminal to the payment center wherein the information would include merchant ID, cost and any relevant information in light of (Paragraph 25). Even though, the customer has to make a call to confirm a transaction, Kwan arguably fails to teach where one receives such a number. Thus, in combining Kwan with the secondary reference, the examiner has shown that a user can be given a telephone number on a computer interface (display) to complete a transaction for authentication reasons.

The applicant argued in (see page 20) that the combination fails to teach the claimed subject matter of claim 11) because the combination fails to teach displaying transaction data.

The examiner disagrees because the combination including Kwan teaches a point of sale terminal, which can be a physical entity such as Kiosk and so forth with connections to the internet, which users can access to. Furthermore, according to Jalili, transaction data can be sent to a payment processing system wherein the merchant terminal could include a computer medium for e-mailing or sending invoice data and so forth. The combination including Apte teaches being able to transmit transaction data and displaying a number to be called.

The combination including Kwan teaches calling a payment center to confirm a transaction and to be billed for it as such, the only feature not taught is how a user receives a number to call. The transaction site issue has already been discussed and rendered obvious in light of Kwan.

In summary, the examiner believes the explanation as set forth in the rejection of the claimed subject matter to be proper and permissible.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **REXFORD N BARNIE** whose telephone number is 571-272-7492. The examiner can normally be reached on M-F 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRIMARY EXAMINER
REXFORD BARNIE
07/28/05


REXFORD BARNIE
PRIMARY EXAMINER